

Remarks

The Office has continued to reject claims 1-22 under 35 USC 103 (a) as not sufficiently distinguishing from the admittedly different approach of the Holte-Rost et al, patent modified to incorporate the suggestion of multiple routers in the RFC 1269 memo.

The Office had noted that

"The broad claim language used...without more functional language, reads on the references provided",

suggesting the incorporation of "more functional language" to distinguish applicants' claims.

Applicants thought that such was incorporated in the last amendment, but the Office has criticized this attempt as involving improper "negative limitations".

The independent network claim 1 and method claim 6 have accordingly been amended to delete the objectionable negative limitations, and to further add positive structure and functional language to distinguish applicants' invention from the type of software shutdown and activating upgrade process replacement disclosed in the patent to Holte-Rost et al.

As amended, claim 6, for example, specifically now recites applicants' "multiple routing system" as having "a plurality of paths (upper and lower in Figure 1) of interconnected router nodes" (N_1, N_2, N_4, N_5 in the upper path and N_1, N_3, N_5 in the lower path), with

"each router node controlled by software processing and managing information for enabling data routing along a predetermined path of each of the plurality of router nodes between common input and output-terminal nodes for the paths (at N_1 , and N_5).

The claim continues, reciting

"apparatus for revising and upgrading the software information in one of the router nodes (N_3) along one of said paths (the lower) comprising means operable during the continued data routing along said one path between said terminals (at N_1 and N_3) for preparing new software information ("New") at said one router node from said original software information ("Old") within said one router node (N_3) and including revisions and upgrades while said one router node continues routing data between said terminal nodes".

Claim 6, as amended, concludes with

"and means operable after such preparing of the new software information and said one router node during the continuing of the data routing along said one path without any internal or external interruption, the swapping means enabling said swapping imperceptibly to all the other router nodes in the multiple path routing system".

Clearly no such structure and function can be found in the cited Holte-Rost et al

reference and claim 6, as amended, thus appears to be allowable over the references.

Similar distinguishing amendments have also been incorporated into independent method claim 1. The remaining method claims 2-5 all depend from parent claim 1, and thus embody the same distinguishing language thereof; and claims 7-22 all depend from parent network system claim 6, above discussed, such that they all clearly define over the cited prior art.

The dependent claims, moreover, have added limitations as well -- claims 3, 8 and 10 (revisions and upgrades to the original software), claims 4 and 9 (new software install notification), claims 11, 17 and 20 (messaging-linking), and claims 18, 19, 21 and 22 (task state-interface) some of which, by themselves, the Office finds in the Holte-Rost patent. Applicants, however, do not claim novelty in these added limitations per se, but only in connection with and in combination with the total method or apparatus of the respective parent claims which, as above shown, are not at all anticipated by the cited art.

Applicants thank the Examiner for calling attention to the newly noted patents to Oberhauser et al, Moser et al, and Gard et al. which have been reviewed; and applicants concur that they deal with "other ways to perform uninterrupted router upgrades" and are not anticipatory of applicants' advance.

Reconsideration and allowance of claims 1-22, particularly as amended, are therefore now believed to be appropriate and therefore are respectfully submitted.

Any cost required by this filing, including for any required time extensions, petition for which is hereby made, may be charged to the Deposit Account No. 18-1425 of the undersigned attorneys.

Very respectfully,

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